

# ISSUES OF MERIT

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## Performance Appraisal Systems: Quality vs. Quantity

*A five-level appraisal system alone may not deliver the results needed to successfully implement pay for performance.*

As more and more Federal employees are moved to pay for performance compensation systems, a much greater emphasis will need to be placed on ensuring that agency performance appraisal systems can support the change. The performance appraisal systems that underpin the determination of pay adjustments must be rigorous enough to support the evaluation and differentiation in performance among members of the workforce. If employees do not understand and do not ultimately accept why their colleagues receive either higher or lower ratings than themselves, the objectives of a pay for performance system will be undermined. In that case, the costs of developing such systems may turn out to be greater than the benefits derived from them.

Two of the largest organizations to undertake the conversion to a pay for performance compensation system will be the Departments of Defense (DoD) and Homeland Security (DHS). In recognition of the critical role rigorous performance management will play in changing to this new system, these agencies have issued regulations that require supervisors to make greater distinctions in evaluating

the performance of their subordinates. Pass/fail rating systems will generally not be permitted since they do not provide a sufficient basis to distinguish between high performers and others who do an acceptable, but not exceptional job.

This will be a major change for many employees—particularly in DHS since 73 percent of the agency's employees were evaluated on a pass/fail rating system as recently as fiscal year (FY) 2005.<sup>1</sup> In the total Federal workforce, 45 percent were rated on pass/fail systems; another 45 percent were rated using the more traditional five-level rating scale; and 8 percent were rated using a three level rating scale.

Given the large number of employees working under both pass/fail and the more traditional five-level rating system, we thought it would be interesting to compare views of the performance management process between employees being evaluated under these two different approaches to see if there were any notable differences. Based upon responses obtained through the Merit Systems Protection Board's Merit

<sup>1</sup>Source: Central Personnel Data File

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We offer insights and analyses on topics related to Federal human capital management, particularly findings and recommendations from our independent research.

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## DIRECTOR'S PERSPECTIVE

# The Future of Federal Hiring

*Minorities are disadvantaged by hiring programs meant to diversify the workforce. Here's what we should do about it.*

I think most people would agree that Federal hiring needs reform. The hiring process too often serves as a barrier to attracting and hiring high-quality candidates because it takes too long, is too complex, and uses inferior assessment practices that fail to identify the most qualified candidates. I want to invigorate “outside the box” thinking and suggest improvements that will: 1) improve candidate quality and selection; 2) speed the hiring process; and 3) improve the diversity of the candidate pool.

It is no secret that we are facing a human capital crisis. This crisis was created partly by a decade of downsizing and failure to develop modern recruitment and selection processes that meet future workforce requirements. The average age of employees has crept up every year because of these reasons and because we face barriers to bringing in younger people right out of college. Our most common method of evaluating candidates is a system that assesses candidates based on their training and experience, making it difficult for a 22 year old college graduate to compete with more experienced, but not necessarily higher potential, candidates. Thus the average age of new hires is 34 and 29 for professional and administrative fields respectively. As this “upward entry age spiral” continues and baby boomers continue to age, a potential retirement tsunami looms over the Federal workplace.

I offer two steps to simultaneously break this trend, brighten the future of Federal hiring, and meet the above

objectives. First, I suggest that we sunset the *Luevano* consent decree and its related hiring authorities—the Outstanding Scholar and Bilingual/Bicultural hiring authorities. These hiring authorities were designed to be a temporary fix to the problems created by disparate impact on Hispanic and African American candidates of the written examination tool called the Professional Administrative Career Exam (PACE). However, the consent decree and the hiring methods it created are now 25 years old and have outgrown their usefulness in terms of ways to hire for entry level jobs—especially for Hispanics and African Americans.

The special hiring authorities have not helped the Government diversify its workforce. Only 1 in 14 hires under the Outstanding Scholar portion of this consent decree was Hispanic in 2000-2001. In 2005 it was 1 in 11 hires. Overall more than 75% of the hires under this authority are white. More Hispanics and African Americans are hired under other entry level authorities—such as competitive examining—than under these two related special hiring authorities. Unfortunately, the consent decree also creates barriers to competitive hiring.

The Administrative Careers With America (ACWA) rating schedule was designed to be the primary method used for competitive career-entry positions covered by the consent decree. However, the rating schedule of 156 occupational questions is a major deterrent to applicants because of its length and the appearance that the questions have little relationship to job requirements. Forcing agencies to use this rating schedule for over 100

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# Improving Federal Hiring

(continued from page 2)

entry-level jobs is one reason some agencies have avoided entry level hiring and increased hiring at mid levels. This drives up the average age and negatively impacts the ability of young college graduates to compete. Hispanics are the fastest growing population of young college graduates and therefore disparately impacted by the very authority meant to reduce disparate impact.

The Bilingual/Bicultural hiring authority within *Luevano* can be a positive although the total of these appointments was less than one-half of one percent of new hires last year. Hispanics received 2/3 of that small percentage. Similar authority is already available in all other intake methods where a need for bilingual capability exists through the use of selective factors. The hiring authorities flowing from the consent decree are designed to control the process of assessing candidates. We need to hold agencies accountable for *results*—including achieving a representative workforce rather than just focusing on controlling the processes.

Second, I suggest we use the Federal Career Intern Program (FCIP) as a primary hiring authority into the civil service for those 100 plus occupations now held hostage by the consent decree. One of the best assessment methodologies with the least disparate impact is one that involves a job sample test—or actually doing the work. With its extended trial period, the FCIP is an opportunity to see and help candidates develop over 2 years of on-the-job assessment and should require an affirmative decision to convert to permanent employment. The FCIP authority allows targeted recruitment that can

help agencies obtain the necessary skills for the job while also diversifying the workforce, particularly regarding Hispanic under-representation. As long as agencies don't unnecessarily narrow the applicant pool, the Government meets the public's interests in a merit-based system and the merit principle of citizen access to jobs. Agencies must be given flexibility and commensurately held accountable for results and for developing valid, practicable assessment tools to achieve these results.

The FCIP hiring authority has the proven flexibility to help, but it is still significantly impaired by the consent decree process controls. By releasing the consent decree requirements for FCIP hiring at the entry levels, the Government would be able to readily attract and hire young college graduates even more quickly than it did under the old PACE authority. Accountability for *results* of use of such an expanded authority is what we should measure because that is what we want to achieve: better quality of candidates—faster hires—and greater diversity.

These two key changes will make it easier to attract people to Government service, and will improve the Government's ability to hire more quickly. The changes will encourage hiring at the entry level which will impact the average age of employees and help us address the human capital crisis rather than continuing to add to it. They will also, very importantly, help raise the quality of new hires and expand our diversity, especially where we are notably under-represented in Hispanic employees. ❖

*Steve Nelson*

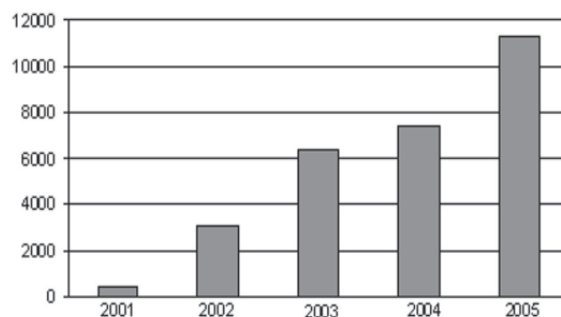
Director, Policy and Evaluation

## Focus on the Facts

**Fact:** The popularity of the Federal Career Intern Program (FCIP) continues to grow based on FY 2005 data.

**Focus:** In our 2005 report, *Building a High Quality Workforce: The Federal Career Intern Program*, MSPB predicted that the Federal Career Intern Program was becoming the hiring method of choice based on its increased use from 2001–2004. While the total number of appointments under this fairly new authority are still small in comparison to more established hiring authorities, the growth continues. The number of FCIP appointments almost doubled in just 2 years.

Appointments Under the Federal Career Intern Program, FY 2001-2005



Source: Central Personnel Data File.

# Performance Appraisal Systems

(continued from page 1)

Principles Survey 2005 (MPS), we were surprised to find that there were only very small differences between these two groups of respondents in terms of the perceived effectiveness of these two types of performance appraisal systems. For example, a virtually identical proportion of the workforce (92 percent) said that they understood how they contribute to their agency's mission.

Some of the differences between these respondent groups are shown in the accompanying table. For instance, more employees working under five-level performance appraisal systems participated in setting the standards used to evaluate their job performance. They also tended to believe that the standards used to evaluate their performance were both objective and appropriate. Perhaps for these reasons, employees working under the five-level systems were slightly more likely to agree that performance ratings in their work unit accurately reflect job performance and that they are satisfied with their organization's performance appraisal system. Although the magnitude of these differences was small, the responses were more positive in the five-level systems.

There is apparently substantial room for improvement in the performance appraisal process—regardless of whether an employee works under a pass/fail or five-level performance appraisal system. While the five-level systems appear to be slightly more effective than the pass/fail systems, it is important to note that less than half of the employees under either system agree that the systems are working as they were intended. One implication of these results may be that simply moving from a pass/fail system to a five-level system is not enough to ensure that employees will have confidence in the distinctions made in performance ratings and subsequent pay for performance compensation adjustments.

These results do not inspire confidence that the five-level rating systems currently in place in Federal agencies are up to the challenges of supporting new pay for performance compensation systems. Rather, as we discuss in our recent report, *Designing an Effective*

Responses of Employees in Pass/Fail Appraisal Systems Compared to Those in Five-Level Appraisal Systems		
Question	Pass/Fail	Five-Level
I participate in setting standards and goals used to evaluate my job performance.	50%	55%
The standards used to appraise my performance are appropriate.	66%	69%
Objective measures are used to evaluate my performance.	49%	52%
I am satisfied with my organization's performance appraisal system.	38%	43%
In my work unit, performance ratings accurately reflect job performance.	47%	53%

Source: MSPB's Merit Principles Survey 2005

*Pay for Performance Compensation System*, agencies will have to train supervisors to make more justifiable distinctions among employees in terms of their contributions to mission accomplishment and hold them accountable for making these distinctions. In addition, agencies will have to make a substantial investment in terms of time, money, and effort to ensure that: (1) performance goals and measures are relevant, reasonable, and usable; (2) employees understand and participate in the performance evaluation process; and (3) performance is evaluated fairly and rigorously. ❖

## ... ANNOUNCING ...

In accord with the Government Performance and Results Act, the Merit Systems Protection Board is updating and revising its Strategic Plan for FY 2007–FY 2012. The draft of the revised plan is available on our Web site at [www.mspb.gov](http://www.mspb.gov).

The plan has three strategic goals—two goals reflecting our statutory responsibilities for adjudication and merit systems studies, and one goal for management support. We invite all interested stakeholders to review and comment on our plan. Comments may be emailed to [strategic.plan@mspb.gov](mailto:strategic.plan@mspb.gov).

# College Degree? Uncle Sam *May* Want You—or Not

We continue to hear dire predictions about the effect of baby-boomer retirements on the performance of Federal agencies. In response, recruitment experts are encouraging agencies to step-up college recruitment activities. Unfortunately, having a college degree may not be enough to get a foot in the Federal door.

The top 10 occupational series for which the Government hired new Federal employees in FY 2005 were:<sup>2</sup>

1. Social Insurance Administration (0105)
2. Customs and Border Protection Officer (1895)
3. Miscellaneous Administration (0301)
4. Contracting Specialist (1102)
5. Auditing (0511)
6. Nurse (0610)
7. Information Technology Management (2210)
8. Natural Resources/Biological Sciences (0401)
9. Criminal Investigations (1811)
10. Management/Program Analyst (0343)

While these occupations look diverse and open to a broad degree of educational experience, a closer look reveals that they are more selective. Four of the ten occupations have minimum education requirements (1102, 0511, 0610, and 0401), meaning it may take more

than a liberal arts degree to qualify. Three more of the occupations have individual occupational requirements, such as specialized experience for information technology positions and physical requirements for criminal investigators and Customs and Border Protection officers.

For the occupations that do not have specialized requirements, recent college graduates still have a hard time getting their foot in the door. In four of the top occupations (0301, 0343, 1811, and 2210), agencies hired a majority of their career entry employees at the GS-9 level or equivalent—meaning that the new hire must have prior relevant work experience or a graduate-level degree.

The lesson to be learned is that while having a college degree is beneficial, it may not guarantee a Federal job. Applicants need to be aware that a liberal arts degree may be harder to market than a specialized or advanced degree, so they should do their homework on the types of jobs to which they will want to apply. Agencies, in turn, need to ensure that college recruitment activities are targeted at appropriate sources and that the required and desired qualifications are clearly communicated. ❖

<sup>2</sup>Source: Central Personnel Data File, Dynamics file 10/1/04-9/30/05, full-time, nonseasonal, permanent, professional and administrative, General Schedule and Related Grades 5/7/9, no prior civil service.

## Category Rating: Well Liked, Still Not Well Used

For several years now, agencies have had the authority to develop category-based rating systems to screen applicants for positions filled through competitive examining. As an alternative to the “rule of three,” category rating was designed to give agencies the flexibility to consider more than just the top three candidates, while still maintaining veterans’ preference. Results from a recent MSPB interrogatory suggest that agencies generally recognize the advantages of category rating, although many have been slow to implement it.

Of the 22 agencies that responded to the questionnaire, only 9 reported using category rating. Many of the remaining agencies said they plan to use it in the future, once they’ve developed policies and trained staff. Yet, even once procedures are in place, agencies appear to be proceeding cautiously. The 9 agencies that reported using category rating only used the approach to fill about 20% of their competitive examining positions.

Despite this continued reliance on traditional competitive examining, comments by agencies using

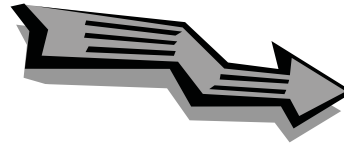
category rating were quite positive. While some noted confusion surrounding the category rating policy and procedures, this seemed to be outweighed by positive comments regarding the improved flexibility and efficiency, and more effective identification of the most qualified candidates.

As comfort levels increase, use of category rating is likely to spread. But once they’ve implemented category rating, agencies need to realize their responsibilities are not over. Agencies are required to report to Congress (and the Office of Personnel Management) in each of the 3 years following implementation of category rating the number of employees hired under category rating, the hiring outcomes in terms of impact on veterans and minorities, as well as a description of the training provided to managers (5 U.S.C. §3319).

While nearly all of the responding agencies reported an awareness of this requirement, few demonstrated that they have actually fulfilled it by tracking and summarizing this data. ❖



# Prohibited Personnel Practices: Declining Trend is Good News



*MSPB survey finds Federal employees are reporting fewer prohibited personnel practices.*

MSPB conducts the Merit Principles Survey to track agency adherence to merit principles, as well as the perceived frequency of “prohibited personnel practices” or PPPs (5 U.S.C. 2302). These PPPs are activities agencies must avoid and include specific forms of discrimination, nepotism, retaliation for employee whistleblowing, and interference with merit-based hiring and efficient workforce management.

The table below contains data from MSPB’s Merit Principles Surveys (MPS) conducted across the last 20 years. Responses to questions about PPPs indicate that employees have experienced fewer of these practices during the 2 years prior to the 2005 administration of the survey than at any other time in the last 2 decades. The differences are small but show a declining trend.

Moreover, the overall percentage of reported PPPs remains small—meaning that very few employees report experiencing PPPs. This is grounds for some optimism that Federal managers and employees are acting in increasingly appropriate ways at work. It may also indicate that the efforts of MSPB and other agencies to safeguard the Federal workforce are succeeding.

The MPS data needs to be interpreted with caution. They do not tell us directly whether there are fewer PPPs or whether employees are simply reporting fewer PPPs. Critics could claim that employees are experiencing more PPPs, but are too intimidated by their managers or agency leadership to say so. How can we choose between these

two contradictory interpretations?

Using the data from other items on MSPB’s MPS 2005, we conclude that it is most likely that these decreasing trends are actual rather than the result of underreporting. Otherwise, some of these same intimidated employees would likely be much more positive in their responses to all MPS 2005 questions about their supervisors and agency leaders. This is not the case—our participants are not afraid to identify areas of needed improvement in their agency.

For example, less than half of employees surveyed report that their supervisors are fair and effective at taking adverse actions (44%), dealing with poor performers (30%), or developing employees’ skills and performance (47%). Fewer than half believe that their agencies are effective in handling workplace conflicts (39%). Since employees do not sugarcoat their responses to these questions, it is likely they are comfortable enough to report their actual opinions about PPPs.

Although our data suggests that occurrences of PPPs remain low, indicating that we have all worked together to foster appropriate behavior in the workplace, this does not mean that we should rest easy. Achieving a 100% safety record on a factory production line does not mean workers or managers can stop thinking about safety. Similarly, Federal employees and managers must continually attend to the merit principles and work to eliminate prohibited personnel practices. ❖

Percent of Employees Reporting the Occurrence of Select Prohibited Personnel Practices						
In the past 2 years, do you feel you have been...	1986	1989	1992	1996	2000	2005
Denied a job or promotion because one of the selecting or recommending officials gave an unfair advantage to another applicant?	—	—	19	25	22	19
Discouraged from competing for a job or promotion by an agency official?	—	—	16	18	14	12
Denied a job or promotion which went instead to the relative of one of the selecting or recommending officials?	6	6	4	5	4	3

Source: Merit Principles Surveys conducted in 1986, 1989, 1992, 1996, 2000, and 2005.

# Citizen Employees: A Balance of Rights



*The Supreme Court clarifies public sector employees' freedom of speech.*

What happens when a citizen's right to free speech conflicts with an employer's right to control an employee's words and actions? This was the issue in a recent Supreme Court decision, *Garcetti v. Ceballos*. This case is particularly important for public employees because it involved a Government employer.

Ceballos, a supervising deputy district attorney for Los Angeles County, California, reviewed the grounds on which the police had obtained a search warrant that was critical to a criminal case. It was Ceballos's job to investigate the situation, which he did. He then notified his supervisors verbally and in writing that he found the warrant was fatally flawed, and that as a result, he thought the case should be dismissed. Ceballos's supervisors decided to proceed with the case against his advice. Ceballos was called by the defense to testify about the warrant, but the judge in that case rejected the defense's arguments and the warrant was allowed to stand.

Following these events, Ceballos was reassigned, transferred, and denied a promotion. Ceballos sued, claiming the County retaliated against him for exercising his right to free speech—reporting alleged misconduct.

In *Ceballos*, the Supreme Court noted that the First Amendment protects a public employee's right to speak as a citizen on matters of public concern. However, the court found that Ceballos was not acting as a private citizen. Investigating the warrant and expressing an opinion on its merits were part of his official duties. The court stated that “when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes.”

What does this mean for the Federal whistleblower? The Supreme Court's decision is consistent with decisions by the Board's reviewing court, the Federal Circuit, which has stated that, “reports made through normal channels as part of an employee's assigned normal job responsibilities are not covered by the Whistleblower Protection Act.” (Huffman v. OPM, 263 F.3d 1341 (Fed. Cir. 2001))

In *Ceballos*, the Supreme Court addressed the issue from the perspective of the First Amendment, and reached the same conclusion the Federal Circuit had found in the context of the Whistleblower Protection Act: disclosures made pursuant to the performance of official duties do not afford whistleblowing protection. ❖

## Give Your Hiring Process a Tune-Up

Is your hiring process meeting the needs of your agency? This seemingly innocuous question often raises strongly negative responses. What is it about the hiring process that elicits such negative reviews? Frequently, the real culprit is a lack of information.

What often happens in Government is that an agency establishes a work process and follows it repeatedly without knowing if it is producing what it was intended to produce—in this case, quality hires. Given decreasing resources, it is understandable why agencies may believe they need to spend more time “doing” than “evaluating.” Yet, spending more time evaluating the results of the hiring process can actually help make it more valuable.

A good first step is to examine all of the individual steps involved in the hiring process to identify inefficiencies and bottlenecks. Agencies might be surprised at what they find: needless steps that were put in place to meet misunderstood or now-defunct regulatory requirements, excessive approval levels, lack of communication between managers and personnel staff, or redundant application or assessment practices.

An efficient process is important, but the ultimate measure of how well the hiring process is working is the quality of the hires—and this often proves to be the most difficult aspect to measure. It doesn't have to be complicated. Agencies just need to answer a few questions about the quality of the process and the results the process produces. For instance, is the agency:

- Targeting needed skills or just using the same recruitment sources it has always used?
- Using predictive assessment tools?
- Providing managers satisfactory candidates?
- Hiring employees who perform well and who stay around long enough to make a positive difference?

These are the kinds of questions agencies should ask to evaluate if their hiring processes are meeting their needs—in terms of efficiency as well as quality. Agencies should keep in mind that it is often their own internal processes and practices that hold them back. For more information on how to improve agency hiring practices, check out MSPB's new perspectives report, *Reforming Federal Hiring: Beyond Faster and Cheaper*. ❖



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